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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,708	09/21/1999	MICHAEL L. GOUGH	NEO1P018.US01	3709
45965	7590	07/09/2008	EXAMINER	
TIPS GROUP			VU, THONG H	
c/o Intellevate LLC			ART UNIT	PAPER NUMBER
P. O. BOX 52050			2619	
Minneapolis, MN 52050				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/400,708	GOUGH, MICHAEL L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thong H. Vu	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 5/28/08.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5-8 and 11-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5-8,11-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

1. Claims 1-3,5-8,11-22 are pending.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/20/08 has been entered.

***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

***Claim Rejections - 35 USC § 101***

4. Claims 16-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant claims an electronic message comprising a data object, text. In order to be statutory, applicant must indicate that the email message embodied on a computer readable medium which is executed by a computer or processor (MPEP 2106).

***Claim Rejections - 35 USC § 103***

Claims 1-2,5-8,11-13,15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al [Shaffer 6,785,867 B2] in view of Stanbach, Jr. et al [Stanbach 6,449,657 B2].

5. Claim 1, Shaffer discloses A method for executing an application program associated with an electronic message [Stanbach, automatic application loading for email attachments, col 1 lines 55-col 2 line 22], comprising:  
initializing at least one application program by automatically retrieving code from a server over a network after an electronic message received over the network is opened for viewing by a user including extracted, wherein the application program is received, at least in part, over the network after the receipt of the electronic message and as the result of the opening by the user of the electronic message [Shaffer, a method for automatic application loading, when the user access or open the email message, col 4 lines 34-col 5 line 64], and

automatically executing the application program of the electronic message within the context of the electronic message after the initialization thereof [Shaffer, automatically opens the attachment application file, col 4 lines 34-56];

However, Shaffer does not explicitly detail  
wherein the application program becomes associated with a context of the electronic message after being sent but before being received by the user;

Stanbach taught an Internet host system with Email advertisement selection, a mail transfer agent, SMTP services, including a particular advertisement can be

screened by the context or content of the email message [Stanbach, col 21 lines 5-20] and when the email message is transferred by the email agent, an advertisement can be inserted therein or associated therewith [Stanbach, col 23 lines 1-10].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of attaching an application program or an advertisement associated with the context of email message and inserted into the email message by the email transfer agent after being sent and before the email is opened by the user as taught by Stanbach into the Shaffer's apparatus in order to utilize the email service process.

Doing so would improve the method for loading application program or advertisement and enhancing the email process.

6. Claim 2 Shaffer discloses the electronic message is opened by the user by clicking on an identifier of the electronic message in an electronic mail browser [Shaffer, a method for automatic application loading, when the user access or open the email message, col 4 lines 34-col 5 line 64].

7. Claim 5 Shaffer discloses the execution of the application program includes a functionality based on a text included with the electronic message [Shaffer, file name, col 5 lines 49].

8. Claim 6 Shaffer discloses the execution of the application program includes the display of streaming video over the network [Shaffer, JPEG, MPEG, col 1 lines 25].

9. Claim 7 the combination of Shaffer-Stanbach discloses the execution of the application program includes outputting an advertisement [Stanbach, advertisement, col 9 line 18].

10. Claim 8 Shaffer discloses the application program is executed on a network browser [Shaffer, web browser, col 3 lines 20].

11. Claim 11 Shaffer discloses the execution of the application program includes the ability to send a new electronic message over the network [Shaffer, notifying the user, col 5 lines 24].

12. Claim 12 Shaffer discloses the execution of the application program produces at least one of a pictorial, graphic, animated, video and audio display [Shaffer, video, audio col 3 lines 46].

13. Claim 13 Shaffer discloses the application program and internet [Shaffer, ISP, col 2 lines 61] and Stanbach taught internet environment includes markup language which calls an object-oriented computer language [Stanbach, HTML, col 15 lines 35-60].

14. Claim 15 Shaffer discloses A computer program embodied on a computer readable medium for executing an application program associated with an electronic message, comprising:  
a segment at least partially within an electronic message for initializing at least one application program by automatically retrieving code from a server over a network after the electronic message is received over a the network and is opened for viewing by a user, wherein the application program is received, at least in part, over the network after

the receipt of the electronic message and as the result of the opening by the user of the electronic message [Shaffer, a method for automatic application loading, when the user access or open the email message, col 4 lines 34-col 5 line 64], and a code segment automatically executing the application program of the electronic message within the context of the electronic message after the initialization thereof [Shaffer, automatically opens the attachment application file, col 4 lines 34-56].

However, Shaffer does not explicitly detail  
wherein the application program becomes associated with a context of the electronic message after being sent but before being received by the user;  
Stanbach taught an Internet host system with Email advertisement selection, a mail transfer agent, SMTP services, including a particular advertisement can be screened by the context or content of the email message [Stanbach, col 21 lines 5-20] and when the email message is transferred by the email agent, an advertisement can be inserted therein or associated therewith [Stanbach, col 23 lines 1-10].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of attaching an application program or an advertisement associated with the context of email message and inserted into the email message by the email transfer agent after being sent and before the email is opened by the user as taught by Stanbach into the Shaffer's apparatus in order to utilize the email service process.

Doing so would improve the method for loading application program or advertisement and enhancing the email process.

15. Claim 16 Shaffer discloses An electronic message comprising:
  - a data object including text that had been received over a network and stored on a computer having an electronic mail program [Shaffer, attachment program file and file name, col 5 line 49]; and
  - an application program object initialized, at least in part, by being automatically received, at least in part, over the network after the receipt and opening for viewing of the data object, the application program object being automatically executed on the computer after the initialization thereof message [Shaffer, a method for automatic application loading, when the user access or open the email message, col 4 lines 34-col 5 line 64; automatically opens the attachment application file, col 4 lines 34-56],  
However, Shaffer does not explicitly detail  
wherein the application program becomes associated with a context of the electronic message after being sent but before being received by the user;  
Stanbach taught an Internet host system with Email advertisement selection, a mail transfer agent, SMTP services, including a particular advertisement can be screened by the context or content of the email message [Stanbach, col 21 lines 5-20] and when the email message is transferred by the email agent, an advertisement can be inserted therein or associated therewith [Stanbach, col 23 lines 1-10].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of attaching an application program or an advertisement associated with the context of email message and inserted into the email message by the email transfer agent after being sent and before the email is opened by the user as taught by Stanbach into the Shaffer's apparatus in order to utilize the email service process.

Doing so would improve the method for loading application program or advertisement and enhancing the email process.

16. Claim 17 Shaffer discloses the application program object develops at least one of a pictorial, graphic, animated, video and audio display [Shaffer, MPEG, JPEG, col 1 lines 25].

17. Claim 18 Shaffer discloses the at least one of the pictorial, graphic, animated, video and audio display is streamed to the application program over the network [Shaffer, MPEG, JPEG, col 1 lines 25].

18. Claim 19 Shaffer discloses A computer program embodied on a computer readable medium for executing an application program associated with an electronic message as recited in claim 15 wherein at least one code segment resides, at least in part, in a browser software [Shaffer, web browser, col 3 line 20].

Claims 3,14,20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al [Shaffer 6,785,867 B2] in view of Dennis [6,651,087 B1]

19. Claim 20 Shaffer discloses A computer program embodied on a computer readable medium for executing an application program associated with an electronic message [Shaffer, email application attachment file, col 4 line 34-col 5 line 65]

Shaffer also taught web browser [Shaffer, col 3 line 20]. However Shaffer does not detail

wherein the browser software includes the functionality of running a Java applet.

In the same endeavor, Dennis taught an email program and a browser program [Dennis, col 4 lines 35-50] an email with attachment file containing an execution instructions such as java script [Dennis, col 8 lines 27-38; col 10 lines 1-45]

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of attaching an application program or an java applet/script as taught by Dennis into the Shaffer's apparatus in order to utilize the email service process.

Doing so would improve the method for accessing an attachment file and enhancing the email process.

20. Claim 21 Shaffer discloses A computer program embodied on a computer readable medium for executing an application program associated with an electronic message wherein the application program develops at least one of a pictorial, graphic, animated, video and audio display [Shaffer, MPEG, JPEG, col 1 lines 25].

21. Claim 22 Shaffer discloses A computer program embodied on a computer readable medium for executing an application program associated with an electronic message wherein the at least one of the pictorial, graphic, animated, video and audio display is streamed to the application program over the network [Shaffer, MPEG, JPEG, col 1 lines 25].

22. Claim 3 the combination of Shaffer and Dennis discloses the application program includes an applet [Dennis, java script, col 10 lines 1-45].

23. Claim 14 the combination of Shaffer and Dennis discloses the object-oriented computer language includes an applet [Dennis, java script, col 10 lines 1-45].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong H. Vu whose telephone number is 571-272-3904. The examiner can normally be reached on 6:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong H Vu/  
Primary Examiner, Art Unit 2619